

REMARKS

Claims 42-75 are pending. Claims 42, 53, and 64 are independent. Claims 1-41 have been canceled. Reconsideration is respectfully requested.

Claim status

Claim 23 was objected to.

Claims 2 and 23 were rejected under 35 U.S.C. § 112, second paragraph.

Claims 2 and 7 were rejected under 35 U.S.C. § 101.

Claims 1-13, 17, 20-22, and 24-32 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fukatsu (US 4,593,183).

Claims 14-16, 18-19, 23, 38, and 41 were rejected under 35 U.S.C. § 103(a) as being obvious over Fukatsu in view of Official Notice.

As best understood, with the absence of any rejection or objection thereto, claims 33-37 and 39-40 are allowed. See MPEP § 706.02(j); *Ex parte Raske*, 28 USPQ2d 1304-05 (BPAI 1993); and *In re Hoch*, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n.3 (CCPA 1970).

The amendment

The prosecution of this application (which was filed July 16, 2003) has already exceeded seven years. The Applicants respectfully traverse the rejections. Nevertheless, claims have been substantially amended because of the lengthy prosecution in order to advance prosecution to a prompt indication of allowance (either by the Examiner or by the BPAI). Applicants submit that this application is in condition for allowance.

Each of the independent claims 42, 53, and 64 comprise a combination of previously recited subject matter. For ease of understanding, the amended claims have been written as new claims. Support for the amendment can be found in the original claims and specification.

Applicants respectfully traverse the rejections

Claims 2, 7, and 23 have been canceled. Thus, Applicants request that each of the claim objection, the 35 U.S.C. § 112 rejection, and the 35 U.S.C. § 101 rejection be withdrawn.

The 35 U.S.C. § 102(b) rejection

Claim 42 relates to receiving a check during a deposit transaction, where the check has an RFID tag which includes the deposit data. Claim 53 relates to receiving a deposit ticket during a deposit transaction, where the deposit ticket has an RFID tag which includes the deposit data. Claim 64 relates to receiving a deposit bag during a deposit transaction, where the deposit bag has an RFID tag which includes the deposit data. In each situation, the deposit data is read by an RFID tag reader of a deposit-accepting automated banking machine, which also provides a receipt and sends the transaction data to a transaction host.

Fukatsu does not teach the previously recited “remote communication” features of the prior independent claims. Even the Office admitted (at Action page 11) that Fukatsu failed to teach these features. It follows that Fukatsu is even further removed from teaching the currently recited features of a specific type of remote communication, i.e., RFID communication.

The 35 U.S.C. § 103(a) rejection

Applicants challenge the Action's relied upon “Official Notice” assertions on the basis that they are not common knowledge, well known, or supported by any reference to prior art. Applicants respectfully submit that the rejection lacks the requisite supporting evidence. The Patent Office is not permitted to rely merely on assertions of knowledge as the basis for rejecting claims. MPEP § 2144.03. An assertion that is not based on any evidence in the record (like the current situation) lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). Nor can the Examiner's assertions alleviate the deficiencies in Fukatsu.

Applicants challenge all of the Examiner's "Official Notice" assertions, including those directed to:

a check RFID tag that includes check data associated with check indicia being at least one of an account number, a check number, an amount, a payee, and a payer;

a check RFID tag that includes check data being a value that is a function of plural check indicia;

RFID tag deposit data that corresponds to a deposit amount including the types of deposit items involved in the deposit and their respective amounts;

RFID tag deposit data that corresponds to a depositor ID which includes a digital signature; and

a deposit accepting machine receiving via remote communication, depositor input data associated with at least one tangible deposit item.

Applicants request supporting prior art evidence for each of the "Official Notice" assertions. Compliance by the Office with MPEP § 2144.03 is respectfully requested.

Conclusion

The undersigned is willing to discuss any aspect of the claims at the Office's convenience.

Respectfully submitted,



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